

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA



CHARLES JUNIOR LOVE,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

1:12CV782

1:04CR22-1

ORDER

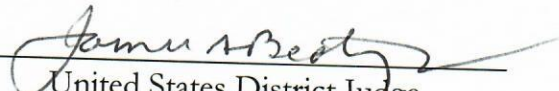
On February 7, 2017, the United States Magistrate Judge's Recommendation was filed and notice was served on the parties pursuant to 28 U.S.C. § 636. No objections were filed within the time limits prescribed by Section 636. Accordingly, the Court need not make a *de novo* review and the Magistrate Judge's Recommendation [Doc. #60] is hereby adopted.

IT IS THEREFORE ORDERED that the Stays previously entered in this action are LIFTED, that Petitioner's Motion [Doc. #34] and Amended Motion [Doc. #48] to vacate, set aside or correct sentence are GRANTED as to his challenge to his conviction on Count Three but DENIED otherwise, that the Judgment [Doc. #16] is VACATED, that the conviction on Count Three of the Indictment [Doc. #1] is VACATED and that Count Three is DISMISSED, that any money paid by Petitioner toward the \$100.00 special assessment for Count Three be returned or credited to him as set out in the Recommendation, and the Clerk is directed to set this matter for resentencing as to Count One. Petitioner remains in custody, and the United States Attorney is directed to produce Petitioner for the resentencing hearing. The Probation

Office is directed to prepare a Supplement to the Presentence Investigation Report in advance of the hearing. Counsel will be appointed to represent Petitioner at the resentencing hearing.

To the extent Plaintiff's Motions under 28 U.S.C. § 2255 have been denied in part, the Court finds no substantial issue for appeal concerning the denial of a constitutional right affecting the conviction, nor a debatable procedural ruling, and a certificate of appealability is DENIED.

This, the 20 day of March, 2017.


United States District Judge